



**REPORT OF THE  
OFFICE OF THE ATTORNEY GENERAL  
PURSUANT TO SECTION 4-61dd OF THE  
CONNECTICUT GENERAL STATUTES**

**REPORT ON THE ALLEGATIONS OF  
RETALIATION AGAINST SGT. ANDREW  
MATTHEWS OF THE CONNECTICUT STATE  
POLICE**

**May 2007**

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## Executive Summary

Starting in the fall of 2005 and continuing to December 2006, this office and a detail from the New York State Police ("NYSP") conducted an intensive investigation (the "Joint Investigation") into reports of systematic shortcomings and abuses in the internal affairs process of the Connecticut State Police ("CSP" or "State Police"). A lengthy final report on this Joint Investigation ("Joint Report") was issued in December 2006. The State Police are adopting the recommendations set forth in that report. The Joint Investigation uncovered systemic failures in the Internal Affairs ("IA") process, as well as individual cases of malfeasance, including several that are currently under criminal investigation.

The Joint Investigation resulted from information provided by a number of courageous whistleblowers within the State Police. The information provided by these whistleblowers proved to be accurate and important in revealing substantial, systemic failings in the IA process. Testimony of former Department of Public Safety Commissioner Leonard Boyle confirms that whistleblowers played a key role.

One of the principal whistleblowers was Sgt. Andrew Matthews of the CSP, who in 2005 was working in the IA Unit. He was among the first to step forward in exposing the failings, and became more publicly visible and vocal than others. He provided information to this office and the New York State Police critical to the successful investigation and reforms.

While the Joint investigation was ongoing, Sgt. Matthews alleged that the Connecticut State Police were retaliating against him for providing information to this office.<sup>1</sup> This Report examines Sgt. Matthews's allegation that there has been retaliation for his whistleblower activities, most notably his cooperation with the Joint Investigation. Sgt. Matthews has claimed that the retaliation against him continues to the present day.

Our investigation of Sgt. Matthews' claims of retaliation involved interviewing under oath 18 witnesses, including State Troopers, other Department of Public Safety and Connecticut State Police personnel, and former Commissioner Boyle. We also examined numerous documents and emails supplied to us by DPS and CSP. The Department of Public Safety and the Connecticut State Police cooperated fully in this investigation. Three CSP managers alleged by Sgt. Matthews to have retaliated against him (retired Col. Edward Lynch, Maj. Christopher Arciero, and Lt. William Podgorski), were given the opportunity to provide information in this investigation regarding Sgt. Matthews's

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<sup>1</sup> Sgt. Matthews's first contacts with this office came in conversations that began around June 2005. Sgt. Matthews began providing this office with documentation in August 2005, provided more oral information in September 2005, and began his systematic cooperation in October 2005. Sgt. Matthews first spoke publicly about his concerns about the IA process at a police union meeting on September 20, 2005. While it is difficult to ascertain with certainty when CSP management first understood that Sgt. Matthews was working with this office and the New York State Police as a whistleblower, CSP management certainly knew by September 20, 2005, when Sgt. Matthews spoke publicly at a union meeting about the shortcomings of the IA process and indicated that he was working with this office.

claims. On advice of counsel, because they were named as respondents in a complaint filed by Sgt. Matthews with the Chief Human Rights Referee, they declined to be interviewed.

Sgt. Matthews has not been fired from his position. Nor has he been demoted. Instead, the investigation revealed substantial evidence of harassment, isolation, and ostracism against Sgt. Matthews. Significant evidence indicates that Sgt. Matthews has suffered personally and professionally, because of his cooperation with this office and the NYSP.

This investigation finds that:

- There is significant evidence that Sgt. Matthews has been consistently subjected to a work environment he considered hostile and that CSP management knew of his concerns. Several days after Sgt. Matthews went public with his criticisms, for example, he received a handwritten note stating in large block letters "CANCER," which was made known and available to senior management.
- Sgt. Matthews's allegations that he was subjected to a hostile work environment are supported by facts presented in this investigation, including evidence of unwanted transfers, and at least one possibly unsafe transfer, or attempt to transfer, his workplace;
- Evidence indicates that claims of isolation and ostracism by Sgt. Matthews appear to have been unaddressed, unchecked and uncorrected by CSP management;
- unusual but frequent monitoring of Sgt. Matthews's physical movements apparently was conducted by CSP management;
- at least one senior CSP manager against whom Sgt. Matthews filed a retaliation complaint remained in charge of personnel matters concerning Sgt. Matthews;
- management apparently failed to properly consider or resolve workplace difficulties experienced by Sgt. Matthews resulting from his whistleblower activities.

The goal of protecting whistleblowers led the General Assembly to level the playing field between employees who risked their careers and employers accused of wrongdoing by establishing a "rebuttable presumption" that "personnel action taken or threatened against" a whistleblower "is in retaliation" for whistleblower activities. Conn. Gen. Stat. §4-61dd(5). This presumption is particularly important in retaliation cases, where evidence may be purposefully concealed or blocked, most especially evidence of intent. The presumption of retaliation, if unrebutted, can lead to a finding of retaliation. This investigation obtained significant evidence of retaliation. There was insufficient evidence to rebut the statutory presumption that retaliation occurred.

We make no finding that the actions against Sgt. Matthews were intentional or unintentional. But the statute requires a conclusion. This statutory presumption is

necessary to conclude – and compels a conclusion – that there was retaliation. Combined with the evidence obtained, this presumption mandates the conclusion that personnel actions taken by the Connecticut State Police constituted retaliation for Sgt. Matthews whistleblower activities in violation of Conn. Gen. Stat. § 4-61dd.

Appropriate protection of whistleblowers is among the most difficult management challenges. This challenge is particularly demanding in a quasi-military law enforcement agency such as the State Police, where conformity and immediate obedience to orders is essential. Regrettably, management of the State Police failed to fully meet that challenge here.

Authorities at the time never effectively protected Sgt. Matthews from retaliation or sufficiently helped him continue his successful career. In fact, whether through CSP management intent or simply through absence of oversight, inattention or neglect, Sgt. Matthews continues to perceive himself – and is perceived by many fellow troopers – as being undefended and unprotected by management.

One recommendation of our previous broader Joint Investigation is that effective law enforcement agency management must provide troopers with the unequivocal message that they have a duty to report unethical or illegal conduct within the State Police. Reporting malfeasance should be encouraged and even rewarded. It should be regarded as a career builder, not a career killer.

This office recommends the CSP take the following actions:

- CSP management should immediately meet with Sgt. Matthews or his representatives to design a mutually acceptable plan for Sgt. Matthews career as a state police officer;
- Any time off taken by Sgt. Matthews due to his perception that he was being subjected to a hostile work environment should be credited as paid administrative leave or other paid leave of absence;
- CSP management must continue to implement policies that protect and encourage whistleblowers;
- CSP should ensure that managers accused of whistleblower retaliation do not remain in charge of personnel actions involving the whistleblower.

## Report

### **I. Scope of this Report**

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The specific issue examined is whether there has been retaliation against Sgt. Matthews for his cooperation with this office and/or the Auditors of Public Accounts, which are the two agencies charged with investigating whistleblower allegations of malfeasance in the state government. One key factual question is when CSP management might first have heard that Sgt. Matthews was cooperating with this office. Review of the available record shows that CSP management learned that Sgt. Matthews was

cooperating with the Attorney General's Office sometime between late June 2005, when Sgt. Matthews first contacted this office, and September 20, 2005, the day Sgt. Matthews spoke out about his cooperation in a union meeting. This report, therefore, primarily examines management actions regarding Sgt. Matthews occurring during and after June 2005.

We interviewed 18 witnesses, including State Troopers, other personnel in the Department of Public Safety and the Connecticut State Police, and former Commissioner Boyle. We also examined approximately 125 documents and emails supplied to us by the CSP and other witnesses. DPS and CSP cooperated fully in this investigation. Retired Colonel Lynch, Major Arciero and Lt. Podgorski declined to testify based on advice of counsel because they are named respondents in a complaint filed with the Chief Human Rights Referee by Sgt. Matthews.

## **II. Facts and Discussion re: Events from June 2005 to the present**

After Sgt. Matthews was transferred from the Internal Affairs Unit to the newly formed Risk Management Unit in June-July 2005, the State Police took several actions, all concerning Sgt. Matthews's work location or assignment, alleged by Sgt. Matthews to be in retaliation for his cooperation with the Joint Investigation. These alleged actions include: 1) moving Sgt. Matthews's unit (Risk Management) <sup>2</sup> to the State Police headquarters building with the intent to watch him; 2) assigning Sgt. Matthews work space at Brainard Field in Hartford, which posed a safety risk to Sgt. Matthews because a criminal task force, created to investigate criminal matters brought to light by whistleblowers including Sgt. Matthews, was conducting interviews at Brainard Field; and 3) assigning Sgt. Matthews office space in the mail room located adjacent to the lobby of the Forensic Laboratory in Meriden.

The facts surrounding the subsequent relocation (in May-June 2006) of Risk Management to headquarters, taken together with other events that took place after management became aware of Sgt. Matthews's role as a whistleblower, appear to have been adverse to Sgt. Matthews. The number of such events, their sometimes highly unusual nature, and management's contradictory explanation for some of its decisions are significant. Although CSP management did not actively demote or dismiss Sgt. Matthews, CSP apparently kept a close rein on his actions and assigned him to work locations that management knew he considered hostile and threatening.

Under Connecticut law, allegations of retaliation by a whistleblower are presumed to be valid, unless rebutted by management. In this investigation, the statutory presumption of retaliation was not rebutted but, instead, is supported by evidence that

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<sup>2</sup> The duties of the Risk Management Unit are to inspect CSP components, searching for problems and vulnerabilities in CSP operations, policies and procedures, and to suggest ways to improve CSP operations, policies and procedures. An internal CSP document created during the planning for the new Risk Management Unit and provided to this office described the unit's function as follows: "The Risk Management Unit is responsible for identifying and recommending action to the Commissioner to minimize risks or harm to the physical, human, fiscal and environmental resources of the agency."

Sgt. Matthews was retaliated against as a result of his whistleblower activities.

**A. Many of the actions ordered by CSP management appear to have assisted in the creation or placement of Sgt. Matthews in a working environment that CSP knew Sgt. Matthews considered hostile.**

- 1. Following a June 2005 complaint to this office against his supervisor in the Internal Affairs Unit, Sgt. Matthews was transferred to the new Risk Management Unit and transferred from Meriden to the CSP Middletown headquarters.**

In June 2005, Sgt. Matthews, a member of the Internal Affairs Unit in Meriden, first contacted this office regarding a personnel complaint. Sgt. Matthews's complaint initially concerned the refusal of Capt. Michael Guillot, his supervisor in the Internal Affairs Unit, to support Sgt. Matthews for a transfer to the Eastern District Major Crimes squad. On or about June 27, 2005, Sgt. Matthews was informed that he would be transferred to the newly-formed Risk Management Unit, and was later assigned a cubicle at CSP headquarters in Middletown. Sgt. Matthews did not seek this transfer. The commanding officer of this new, two-person unit was Lt. Ben Pagoni, whose office remained in Meriden.

On August 22, 2005, the union filed a grievance on behalf of Sgt. Matthews with the State Police, asserting in part "The order to assign Sgt. Matthews to a new assignment, in a new and separate location is a disciplinary transfer since it is not based on any request to be transferred and is not [sic] on any administrative or operational need. The substantial motive for this reassignment and transfer was to discipline Sgt. Matthews."

The initial transfer of Sgt. Matthews to the Risk Management Unit and relocation to CSP Middletown Headquarters does not appear to be related to his whistleblower activities concerning the CSP Internal Affairs Unit because it preceded most of that investigation, and also possibly preceded CSP management's knowledge of his whistleblower activities. Sgt. Matthews's initial complaint to this office was essentially a personnel complaint against Capt. Guillot, and is not related to Sgt. Matthews's later complaints about systemic problems within IA, nor is it related to retaliation for his cooperation with this office. This personnel matter is mentioned here only to provide historical context for the subsequent events.

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A hearing on his August 2005 grievance was eventually held on April 4, 2006, and the grievance was denied in a brief written decision issued on April 10, 2006. The April 10, 2006 decision is not altogether clear, but the denial appears to be based on two factors: first, the hearing officer apparently accepted management's contention that under the State Police contract, no transfer could be considered a disciplinary transfer unless the trooper was transferred to a different "command," and in this case, IA and Risk

Management were both within the Professional Standards command; and second, the hearing officer noted that the complaint was essentially moot, since Sgt. Matthews, who was complaining about being transferred to the Middletown headquarters building, had for some months not been working at his assigned cubicle at headquarters, but rather was sharing space with Lt. Pagoni in Meriden.

2. **Following his September 20, 2005 public criticism of the CSP Internal Affairs Unit and his revelation that he was a whistleblower, Sgt. Matthews reasonably perceived his working environment at CSP's Middletown headquarters to become hostile and threatening.**

A union meeting was held on the evening of September 20, 2005 to discuss the problems in IA. At the union meeting several improperly conducted IA investigations were discussed. During the meeting, Sgt. Matthews stood up and identified himself as a source of the IA information being discussed. Sgt. Matthews at the meeting stated that he was cooperating with an investigation by this office and the Auditors of Public Accounts. This September 20, 2005 union meeting proved to be a pivotal turning point that set in motion the events leading to the Joint Investigation by this office and the NYSP.

On September 21, 2005, Maj. Arciero, a senior officer who was one of only eight majors in the Connecticut State Police, summoned Sgt. Matthews to his office to discuss Sgt. Matthews's provision of information regarding IA to the union and this office. According to Sgt. Matthews, Maj. Arciero told Sgt. Matthews that Maj. Arciero "would do anything to prevent someone from smearing the image of the agency." According to Sgt. Matthews, this conversation with Maj. Arcerio led him to believe that CSP management did not support his whistleblower activities.

On September 23, 2005, Sgt. Matthews met with Commissioner Leonard Boyle at the headquarters building to discuss Sgt. Matthews's allegations of improprieties in the IA process. When Sgt. Matthews returned to his cubicle elsewhere in the headquarters building, he found that an unknown person had left a handwritten, block-lettered note in Matthews's cubicle containing a single word: "CANCER." Sgt. Matthews reported this threatening event, which he believed was aimed at his cooperation with regard to the IA process, immediately to the Commissioner. While Commissioner Boyle was commendably sympathetic when he found out about the cancer note, as noted in the Joint Report, the subsequent inquiry was problematic. An IA investigation was started but not pursued, and was ultimately completed by the New York State Police, with the assistance of this office, as part of the Joint Report issued in December 2006. Due in part to early mishandling of evidence, the Joint Investigation was unable to determine who physically wrote and left the note. CSP's failure to show support for an important whistleblower by ensuring a timely, effective investigation and allowing harassment to remain unpunished and undenounced did nothing to correct a work environment for Sgt. Matthews that appeared to become hostile, and may have helped create a perception within the agency that management did not value or protect whistleblowers.

Sgt. Matthews was deeply disturbed and upset by the harassing, threatening nature of the cancer note, and never returned to his cubicle after September 23, 2005. Sgt. Matthews never received another official office space assignment until May 2006, but instead informally shared space with Lt. Pagoni in Meriden. Shortly after the cancer note incident, Lt. Pagoni met with Col. Lynch in the colonel's office and told him that Sgt. Matthews had legitimate safety concerns working at headquarters. According to Lt. Pagoni, Col. Lynch refused to consider the idea of assigning Sgt. Matthews space away from headquarters, stating instead, "He is staying here, it's not open for discussion." Nevertheless, Matthews informally continued to share space with Lt. Pagoni in Meriden.

After the September 20, 2005 union meeting made Sgt. Matthews's allegations concerning the IA process public, the focus shifted from Sgt. Matthews's discrete personnel complaint against Capt. Guillot to allegations of systemic IA deficiencies. The issue accelerated as other whistleblowers came forward. As the union aggressively supported them, and other whistleblower complaints were lodged with this office and the Auditors of Public Accounts, the issue rapidly escalated. On September 29, 2005, Capt. Guillot was relieved of his command of Professional Standards/IA.

On October 7, 2005, Commissioner Boyle took the highly laudable step of calling on the New York State Police to investigate the CSP IA Unit. Shortly thereafter, this office and NYSP began collaborating. Through 2006, the pace of interviews and other visible investigative activities was intensive and sustained, focusing on the allegations of improprieties at IA.

- 3. In April 2006, Sgt. Matthews, in the midst of the whistleblower investigation, was again ordered to the CSP Middletown headquarters – a location CSP Management knew was considered by Sgt. Matthews to be threatening and hostile.**

When the Risk Management Unit was created in June-July 2005, Sgt. Matthews was transferred to the new unit but relocated away from Meriden to a cubicle at headquarters. Lt. Pagoni, the only other member of the Risk Management Unit, remained in Meriden. From the beginning, Lt. Pagoni had protested the plan to split up the Risk Management team. After receiving the cancer note on September 23, 2005, Sgt. Matthews no longer reported to Headquarters, but instead informally shared space in Meriden with Lt. Pagoni.

On April 4, 2006, a hearing was held on Matthews's original grievance that his July 2005 transfer from Meriden to Middletown was in retaliation for his complaint against Capt. Guillot. Maj. Arciero attended the April 4, 2006 hearing on behalf of management. At the hearing, there was discussion that Sgt. Matthews since September 23, 2005, had not been using his assigned space at headquarters, but rather was informally sharing Lt. Pagoni's space in Meriden. On April 10, 2006, the hearing officer rendered a written decision denying the grievance based on two grounds: 1) under the State Police contract language, a transfer could not be considered a "disciplinary transfer"



unless the transfer was to a unit in another command, whereas both the unit Sgt. Matthews was coming from (Internal Affairs) and the one he was transferred to (Risk Management) were within the Professional Standards command; and 2) since "the grievant is currently back at the Meriden location" the claim of a disciplinary transfer was moot.

At about the same time, in late March or early April 2006, the Risk Management Unit was assigned by Capt. Paul Samuels (who succeeded Capt. Guillot as commanding officer of Professional Standards) to review a number of use-of-force reports. Use-of-force reports are required whenever a trooper uses force in the course of his duties. Lt. Pagoni and Sgt. Matthews quickly became disturbed at the possible egregious nature of several of the use-of-force incidents, and the apparent failure by management to take any corrective action. According to Sgt. Matthews, in view of the fact that he already was engaged in a public battle with management over improprieties in IA, he was surprised that Capt. Samuels had chosen to give these apparently damaging use-of-force reports to Risk Management for review. Of particular concern was a report of an incident wherein a State Police detective injured and arrested a juvenile on five charges on the grounds of a public school.

On April 26, 2006, there was a meeting that included Col. Lynch, Maj. Arciero, Lt. Pagoni and Sgt. Matthews to discuss the use-of-force reports. Lt. Pagoni and Sgt. Matthews testified that they expressed their grave concerns over the incident involving the juvenile, and provided Col. Lynch and Maj. Arciero with a two-page memo explaining their concerns. According to the testimony of Sgt. Matthews, Col. Lynch said he earlier had been given an entirely different, and far less alarming, oral version of events in the incident, and the Colonel then discussed with Maj. Arciero whether an IA investigation should be initiated. Maj. Arciero was instructed to investigate the use-of-force incident.

According to the testimony of Lt. Pagoni and Sgt. Matthews, at the April 26, 2006 meeting, Col. Lynch informed Lt. Pagoni and Sgt. Matthews that Risk Management would no longer be reviewing use-of-force reports. Col. Lynch also reportedly told Lt. Pagoni that Risk Management would be moved to CSP's Middletown headquarters. Col. Lynch reportedly stated that coming directly out of headquarters would give the Risk Management Unit added prestige and respect when it showed up at the various field units to conduct inspections and reviews. Col. Lynch also reportedly informed Lt. Pagoni that, effective immediately, Risk Management would begin reporting directly to the Colonel's office, and would no longer be a part of the Professional Standards command. Former Commissioner Boyle testified that Col. Lynch in 2006 decided that Risk Management should be moved to headquarters, and former Commissioner Boyle approved the decision without extensive discussion. Mr. Boyle testified that he is not sure what Col. Lynch's reasons for the move were. Mr. Boyle also testified that having Risk Management report directly to the Colonel was Col. Lynch's idea, and Mr. Boyle likewise approved this change without significant discussion.

Three weeks after Sgt. Matthews's grievance for being transferred to the

Middletown headquarters was dismissed as moot on the ground that he continued to work out of Lt. Pagoni's Meriden office, Sgt. Matthews was ordered to the Middletown headquarters. Since 2005, following the September 20, 2005 union meeting, the September 21, 2005 meeting with Maj. Arciero, the September 23, 2005 cancer note and the September 29, 2005 transfer of Capt. Guillot to headquarters, Sgt. Matthews had regarded the entire headquarters building as a hostile and even threatening work environment. This appears to have been known to CSP management. Also, only 16 days after the original transfer grievance was denied on the technical ground that Risk Management was part of the Professional Standards command, Risk Management was informed it was to be removed from Professional Standards, and placed directly under the Colonel's command.

In addition, Sgt. Matthews and Lt. Pagoni had just raised an equally troubling new issue concerning management's lack of proper follow-up on use-of-force reports. Col. Lynch and Maj. Arciero expressed significant concern about the use-of-force problems uncovered by the Risk Management team. According to Sgt. Matthews and Lt. Pagoni, Col. Lynch, during and after the April 26, 2006 meeting, responded in three ways. First, he informed Lt. Pagoni that Risk Management and Sgt. Matthews would no longer be in charge of reviewing the use-of-force reports (the responsibility for investigating the afore-mentioned case involving a juvenile and raised by Lt. Pagoni and Sgt. Matthews was eventually given to the Colonel's own chief of staff, Lt. Podgorski); second, he informed Lt. Pagoni that Risk Management would be relocated to headquarters in order to provide the unit with added prestige and respect; and, third, Risk Management would be immediately removed from the Professional Standards Division and would start to report directly to the Colonel. Each of these actions was viewed by Lt. Pagoni and Sgt. Matthews as an attempt to rein in Sgt. Matthews's whistleblower activities.

Col. Lynch's decisions were swiftly implemented. On April 28, 2006, Col. Lynch wrote a memo to the Human Resources office directing them to remove Lt. Pagoni and Sgt. Matthews "from the Professional Standards day sheets and add them to the Deputy Commissioner's [i.e., the CSP Colonel's] Day sheets beginning April 28, 2006." Around May 1, 2006, Maj. Arciero informed Lt. Pagoni that the use-of-force incident involving the injury to a minor was being transferred from Maj. Arciero (head of Labor Relations) to Lt. Podgorski (the Colonel's chief of staff). Also on May 1, 2006, Lt. Podgorski sent an e-mail to Lt. Pagoni instructing Lt. Pagoni to contact Lt. Podgorski every time Lt. Pagoni left the office. On May 3, 2006, Lt. Podgorski reportedly spoke to another person about finding space at the headquarters building for two troopers. Lt. Podgorski reportedly said that the headquarters space was being sought for "Somebody the Colonel wants to watch. They're a problem."

The search for space at headquarters was rapid, and the presence of police officers examining space on Thursday, May 4, 2006 caused some disruption and concern on the part of DPS civilian employees who thought they were going to be displaced by the sworn officers of Risk Management. The civilian employees complained to their supervisor, Wayne Maheu, Executive Director of the Division of Fire, Emergency and

Building Services (DFEBS) of the Department of Public Safety. The same day, Col. Lynch and Lt. Col. Vincent McSweeney paid a personal visit to Maheu to apologize for the disruption. Despite a years-long history of encroaching moves by CSP personnel into the space controlled by Wayne Maheu in the headquarters building, Mr. Maheu testified that this was the first and only visit the Colonel made to speak with Mr. Maheu about a move.

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On the same day, Thursday, May 4, 2006, the Firearms Trafficking Task Force was informed that it had to move from its location at headquarters to new space at Brainard Field in Hartford by the next day, Friday, May 5, 2006. Risk Management later moved into the space vacated by the Firearms Trafficking Task Force.

Consistent testimony, from witnesses who took part in the events of May 3-5, 2006, was presented that Col. Lynch and his top aide said he wanted the space at headquarters so he could keep track of a trooper he was concerned about. On May 3, 2006, Lt. Podgorski, the Colonel's chief of staff, came to speak with Mr. Maheu, and when a member of Mr. Maheu's staff asked Lt. Podgorski who was being moved into the space at headquarters Lt. Podgorski reportedly said that it was, "Somebody the Colonel wants to watch. They're a problem. I can't tell you right now." As noted above, Wayne Maheu had at least one personal conversation with Col. Lynch on May 4, 2006. Later that same day, Wayne Maheu had separate conversations with two sworn officers about his conversation with Col. Lynch. Although Mr. Maheu when he was interviewed by this office could not remember the exact conversation he had with Colonel Lynch, a member of Mr. Maheu's staff testified that Mr. Maheu told him: "Eddie Lynch told [Maheu] that it's a problem child. Got to bring him to headquarters and watch him." A CSP officer testified that he spoke to Mr. Maheu on May 4, 2006 to confirm a rumor that Risk Management was being moved so that the Colonel could watch a problem child: "and I said to [Maheu], well, I know that Col. Lynch came in and told you that we have a problem child and that somebody here had to be watched, and Director Maheu says, yes, that's what he said." There was also testimony that on Friday, May 5, 2006, at least one member of the displaced Firearms Trafficking Task Force told a witness he was being sent to Brainard Field on short notice "because the problem child is coming in on Monday," and that Lt. Pagoni and Sgt. Matthews would be moving into the vacated headquarters space on Monday, May 8, 2006.

On May 19, 2006, Lt. Pagoni informed Lt. Podgorski that Lt. Pagoni was still getting mail addressed to him at Professional Standards in Meriden, and inquired whether a "transfer list" (an agency-wide e-mail or other communication informing the community of the transfer of an individual or unit), or other agency-wide notice, would be coming out "showing me working for the Colonel." According to Lt. Pagoni, Lt. Podgorski replied, "Negative," and told Lt. Pagoni that instead Human Resources and the CSP majors had been apprised of the change. Lt. Pagoni over the next two months repeatedly complained to Lt. Podgorski that these measures had been ineffective, and that he continued to get faxes and mail sent to his old location in Meriden. Nevertheless, no transfer list or other agency-wide notice appears to have ever gone out. This failure to take ordinary and usual steps to notify the CSP of the Risk Management Unit's transfer is

inconsistent with Colonel Lynch's reported initial explanation that the relocation of the Risk Management Unit to Headquarters would provide the unit with new prestige.

On May 24, 2006, Sgt. Matthews wrote a detailed memorandum to Commissioner Boyle, Col. Lynch, and Maj. Arciero regarding the transfer to headquarters, and requesting a meeting with Col. Lynch to discuss the matter. On May 26, 2006, the state police union filed a grievance on Sgt. Matthews's behalf concerning the May 2006 orders transferring Sgt. Matthews to headquarters. During this period of time Sgt. Matthews was not reporting to the Middletown headquarters, a location he considered to be threatening and hostile, and Sgt. Matthews continued to work in Meriden.

On June 5, 2006, Lt. Pagoni met with Lt. Podgorski and Col. Lynch regarding Sgt. Matthews's request for a meeting to discuss the transfer to headquarters. According to personal notes made the same day by Lt. Pagoni, Col. Lynch told him he "wasn't going to talk about [Sgt. Matthews's] movement to HQ again," and that "he wasn't going to have a Lt working at Hq and the Sgt not." Previously, the two members of the Risk Management Unit had been assigned office space in separate locations for at least ten months. On July 27, 2005, at the time of the creation of Risk Management, the CSP had transferred Sgt. Matthews to Middletown, while Lt. Pagoni remained in Meriden, despite Lt. Pagoni's protestations at the time over splitting up a two-member unit. These separate work locations remained in effect until May-June 2006, when both members were relocated to adjacent cubicles at headquarters. According to Lt. Pagoni, Col. Lynch at the June 5, 2006 meeting ordered Lt. Pagoni to insure that all of Sgt. Matthews's equipment be transferred to headquarters by "tomorrow," June 6, 2006. On June 6, 2006, Sgt. Matthews wrote a letter to the Attorney General alleging that Col. Lynch had moved Sgt. Matthews to headquarters in direct retaliation for Sgt. Matthews's provision of information to this office. Sgt. Matthews began working at the Middletown headquarters on June 6, 2006.

**4. Sgt. Matthews and his supervisor in the Risk Management Team appear to have been closely monitored by CSP management.**

As previously stated, on May 1, 2006, Lt. Pagoni was ordered to inform the Colonel's chief of staff every time he planned to leave headquarters. According to the testimony of Lt. Pagoni and e-mails provided by the CSP, on June 12, 2006, Col. Lynch was in Rhode Island, but he nevertheless appears to have received a report that Lt. Pagoni and Sgt. Matthews were not in their assigned space at headquarters. According to Lt. Pagoni, Col. Lynch telephoned Lt. Podgorski from Rhode Island, and asked him to go upstairs to see if Lt. Pagoni and Sgt. Matthews were at headquarters. In a note prepared the same day, Lt. Pagoni stated that Lt. Podgorski said that he went up to take a look and then reported to Col. Lynch that based on still-packed boxes, it did not appear as if Risk Management had moved in. Evidently at the behest of Col. Lynch, Lt. Podgorski then e-mailed Lt. Pagoni ordering him to complete the move. Lt. Pagoni upon receipt of the e-mail visited Lt. Podgorski and explained that in fact he was moved in, but that most of the Risk Management work took place in the field, and that the Risk Management Unit at

that time was assisting the Accreditation Unit.

According to Lt. Pagoni, shortly after Risk Management was moved to headquarters, Lt. Podgorski, the Colonel's chief of staff, began a series of nearly identical conversations with Lt. Pagoni, the commanding officer of Sgt. Matthews's unit, Risk Management. According to Lt. Pagoni, virtually every single time Lt. Podgorski saw or spoke to Lt. Pagoni, Lt. Podgorski would ask where Sgt. Matthews was, and often asked specifically whether Sgt. Matthews was at his desk at headquarters. As soon as Lt. Pagoni answered the question, invariably Lt. Podgorski would follow up with a query as to whether Risk Management had all the equipment, such as computers, that it needed. Lt. Pagoni testified, "I got those calls so many times or when I saw him, it's almost every time I met him he would say is Sgt. Matthews working up there. And then would follow up with do you need any equipment." And, "It was to the point of where I was sitting there saying, are you kidding me? Would you stop asking this question." Lt. Pagoni does not recall any such inquiries from Lt. Podgorski before Risk Management moved to headquarters.

In addition to repeated inquiries by the Colonel's chief of staff (including one such inquiry just several days before Lt. Pagoni was interviewed for this investigation), Lt. Pagoni testified that Maj. Arciero at least two times called Lt. Pagoni reportedly at the behest of Col. Lynch to inquire about Sgt. Matthews's whereabouts and doings. On these occasions, in response to the reported inquiry from the Colonel, Lt. Pagoni was able to ascertain that Sgt. Matthews was on personal or annual leave, but that Sgt. Matthews was nevertheless on State Police property, such as on union business. On such occasions, according to Lt. Pagoni, Maj. Arciero explained to Lt. Pagoni that "We just wanted to make sure that he's not doing things on state time." According to Lt. Pagoni these inquiries by Maj. Arciero, came on days when Sgt. Matthews was on State Police property but on leave. In addition, Lt. Pagoni remains under instructions to tell Lt. Podgorski whenever Lt. Pagoni leaves headquarters. According to Lt. Pagoni, as a result of the Colonel's interest in Sgt. Matthews's whereabouts, Lt. Pagoni, who generally conducts his business in concert with Sgt. Matthews, also adopted the practice of letting Lt. Podgorski know whenever Sgt. Matthews was performing his duties apart from Lt. Pagoni.

This reported repetitive series of inquiries by the CSP Chief of Staff and Maj. Arciero concerning the whereabouts of Sgt. Matthews supports Sgt. Matthews's claim that management moved him to headquarters to keep watch on him. This level of management concern over a single trooper's whereabouts appears to be highly unusual.

On June 22, 2006, the hearing officer assigned to the union's May 26, 2006 grievance regarding the transfer of Sgt. Matthews to headquarters issued a decision denying the grievance. According to the decision, Sgt. Matthews "did not bring forward sufficient evidence to prove violations."

5. **It appears that the proposed transfer of Sgt. Matthews to Brainard Field would have exposed Sgt. Matthews to a hostile and possibly dangerous work environment.**

During the summer and fall of 2006, the Joint Investigation by this office and NYSP continued at an intense pace, while interest in the matter and anxiety about the outcome continued to increase within the union, management, and the CSP community in general. CSP management began to institute changes in anticipation of the completion of the investigation. As the CSP community began to be required to change under the pressure that the whistleblowers had created, Sgt. Matthews's feelings of being threatened, ostracized, and watched, continued to grow. As a result, on November 21, 2006, the union wrote a letter to Commissioner Boyle "requesting that Sergeant Matthews be immediately reassigned to a work location not located within headquarters." On November 28, 2006, Commissioner Boyle by letter agreed "to allow Sergeant Matthews to temporarily work ... away from headquarters until release of the [Joint NYSP/AGO] report, but noted that "[h]is supervisor's work location is at Headquarters and the efficiency of the Unit requires close spatial proximity of unit members." In an e-mail from Lt. Podgorski on the same day, Sgt. Matthews was granted permission to work away from headquarters until further notice. Former Commissioner Boyle testified that the reason he approved the request was "to protect the state police" from any complaints by Sgt. Matthews. Former Commissioner Boyle testified that he did not think Sgt. Matthews was in danger. Mr. Boyle testified that "if I knew there was a safety issue, I would have also had some sense for where it was coming from. And I would have either moved other people or brought other people into my office and made it clear that there wasn't to be a harsh word or look exchanged, but I had no basis to do that."

Shortly thereafter, on December 4, 2006, the final Joint Report was issued. The Joint Report was referred to the Chief State's Attorney's Office for possible criminal investigation. This office has no knowledge as to which cases have been selected by prosecutorial authorities or the CSP for criminal investigation, but has been informed that there are ongoing criminal investigations stemming from the Joint Report.

In this atmosphere, in February 2007, the union requested that Sgt. Matthews be placed on paid administrative leave until the completion of the Attorney General's investigation into Sgt. Matthews's claims of retaliation. On February 7, 2007, Commissioner Boyle denied the union's request that Sgt. Matthews be placed on paid administrative leave, but approved a transfer of Sgt. Matthews to office space at Brainard Field in Hartford "effective immediately." As a result, Lt. Podgorski on February 14, 2007 e-mailed Lt. Pagoni stating that "accommodations have been made for Sgt. Matthews to have an office at [Brainard] Field." Former Commissioner Boyle testified he was not aware at that time that the Brainard Field location was being used for criminal interviews connected with matters brought to light by the Joint Report.

Sgt. Matthews immediately expressed his concern to the union regarding this choice, because Brainard Field was, and continues to be, used for the criminal investigation into allegations stemming from the Joint Report. This office confirmed that

Brainard Field is in use for interviews in connection with the criminal investigation resulting from the Joint Report. Former Commissioner Boyle stated that he first learned that Brainard Field was being used for the criminal investigation from this office, and that thereupon the idea to use Brainard Field to house Sgt. Matthews was abandoned.

On February 20, 2007, John A. Kolosky of the CSP Union wrote to Commissioner Boyle to express concern about the Brainard Field location, and to tell Commissioner Boyle that Sgt. Matthews would feel less at risk if he were assigned to "the Forensic Laboratory in Meriden."

The proposed assignment of Sgt. Matthews to Brainard Field, in the same building where interviews are conducted with the subjects and witnesses of criminal investigations regarding Sgt. Matthews' allegations would have created, at the very least, a very hostile and possibly unsafe work environment for a whistleblower such as Sgt. Matthews. Many of the interviewees are presumably upset about being accused or interviewed in a criminal investigation. Former Commissioner Boyle testified that he delegated to Lt. Podgorski the responsibility to find space for Sgt. Matthews, and that Lt. Podgorski in fact visited the Brainard Field location before recommending it to Mr. Boyle as a good solution. Lt. Podgorski could and should have learned, even if he did not already know, that Brainard Field was being used for some of the criminal interviews stemming from the Joint Report, just as he later determined that space at the Toxicology Lab in Hartford, another possible location for Sgt. Matthews, was inappropriate because a trooper that Sgt. Matthews implicated in the Joint Report worked there.

On February 23, 2007, CSP management informed the union that Sgt. Matthews would be assigned office space at the Forensic Science Laboratory ("Forensic Lab"). Sgt. Matthews's interpretation of the previous attempted transfer to Brainard Field as further evidence of retaliation seems reasonable. This attempted transfer provides significant evidence that CSP management entirely failed to appreciate, much less to ameliorate, the stresses created for Sgt. Matthews by his whistleblower contributions to the CSP.

**6. Sgt. Matthews's transfer to the mail room at the Forensic Laboratory building appears to have heightened his sense of isolation and ostracism.**

When Sgt. Matthews learned on February 23, 2007, that he was being assigned new office space at the Forensic Lab, he testified that he was hopeful that this would provide him with a much-anticipated chance to make a new beginning in the State Police. Sgt. Matthews, who holds a master's degree in Forensic Science, has a long relationship with the lab and with people there. Early in his State Police career, Sgt. Matthews, in order to hone his investigative skills, completed an unpaid internship at the Forensic Lab during his off-duty time. Also, Sgt. Matthews is active in the Connecticut chapter of the International Association for Identification ("IAI"), including having been several times a past president. IAI is a forensic identification membership organization that includes Forensic Lab personnel. Sgt. Matthews testified that he counts several Forensic Lab

employees among his friends, and over the years many times has enjoyed stopping at the Forensic Lab for either social visits and meals, or IAI business. Sgt. Matthews testified that, based on these past experiences, he expected that the Forensic Lab would be a particularly promising and welcoming place for him to start to re-integrate into the CSP community after his turbulent and controversial period as a whistleblower.

On February 23, 2007, Lt. Podgorski e-mailed Lts. Pagoni and David Rice (commanding officer of the Division of Scientific Services, including the Forensic Laboratory) stating that "Sgt. Matthews will be provided office space at the Forensic Lab in Meriden to conduct his risk management and inspection duties." On Monday, February 26, 2007, Lt. Rice informed Ken Zercie, Assistant Director of the Forensic Lab, that Sgt. Matthews would be needing space, but would not be assigned to the lab. Mr. Zercie and Lt. Rice walked through the facility evaluating several potential spaces. A room off the lobby that is being used as a mail room and for a soda machine was selected by Mr. Zercie and Lt. Rice. On Tuesday, February 27, 2007, Elaine Pagliaro, the other Assistant Director at the lab, advised Lt. Rice that Sgt. Matthews should not be permitted in the operational areas at the lab (known as "the back" of the lab building), including several common spaces such as the lunch room, because Sgt. Matthews is not a lab employee. Access to the back of the lab is limited by card key access; typically, all visitors must be escorted by a lab employee. On either February 26 or 27, 2007, Deborah Messina, a senior supervisor at the lab, learned that Sgt. Matthews would not be permitted in the back of the lab, and might not be even permitted to access the back of the lab if escorted. By early Monday morning (February 26, 2007), at least two non-supervisory staffers at the Forensic Lab already knew that Sgt. Matthews would be coming to the lab.

Sgt. Matthews made an appointment for Wednesday, February 28, 2007 at 9:00 a.m. to visit Lt. David Rice, the newly-installed commanding officer of the Division of Scientific Services, which includes the Forensic Lab. The day before, on Tuesday, February 27, 2007, Sgt. Matthews stopped by the Forensic Lab in the mid-afternoon to visit a lab supervisor named Robert O'Brien, in order to discuss an advanced forensics class the two men were teaching at Manchester Community College that night. According to both Mr. O'Brien and Sgt. Matthews, Mr. O'Brien came out to the lobby and spoke briefly to Sgt. Matthews, and made arrangements to meet for dinner before the class that evening. According to Mr. O'Brien, he did not bring Sgt. Matthews back to his office in the lab, as he had done many times before, because Mr. O'Brien had learned from another supervisor that, while Sgt. Matthews was being assigned space at the Forensic Lab building, he would not be allowed in the back of the lab unescorted, and might not even be allowed in the back on an escorted basis, even "for a cup of coffee." Mr. O'Brien therefore did not want to take a chance of violating this directive by taking Sgt. Matthews to the back of the lab, though Mr. O'Brien, a long-time senior supervisor at the lab who served for more than a year as the *de facto* chief of staff at the lab during 2006-07, viewed the restriction as "ludicrous." Mr. O'Brien was generally aware of the difficulties Sgt. Matthews had encountered as a result of his whistleblower activities. The proposed restriction on access to the back of the lab had raised Mr. O'Brien's concern that Sgt. Matthews was walking into another difficult situation. Sgt. Matthews



testified that when he greeted Mr. O'Brien in the lobby that day by asking how Mr. O'Brien was, Mr. O'Brien responded, "I'm O.K., but you're not," and ushered Sgt. Matthews out of the building after a quick conversation.

According to both Mr. O'Brien and Sgt. Matthews, at dinner on February 27, 2007, Mr. O'Brien informed Sgt. Matthews of the fact that Sgt. Matthews might not have any access to the back of the lab, and Mr. O'Brien testified that he told Sgt. Matthews that he thought Sgt. Matthews was being treated like a "leper," and the treatment was unfair. Sgt. Matthews immediately became concerned that his relocation to the Forensic Lab might not go as smoothly as he had been hoping. Thus, it was with a sense of anxiety that Sgt. Matthews kept his appointment with Lt. Rice and Assistant Laboratory Directors Pagliaro and Zercie the next morning. Sgt. Matthews testified that his worst fears were confirmed when Lt. Rice informed him that Sgt. Matthews's new office would be the mail room located outside the enclosed lab space.

Sgt. Matthews was upset at learning that he would be assigned to the mail room off of the lobby, and that he would not have access to areas such as the lunch room in the back of the lab. Sgt. Matthews felt the mail room was not secure, since it was not behind the lab's card-key access points. Sgt. Matthews expressed some concerns about the lack of security, and stated that Lt. Rice must have been informed by headquarters about Sgt. Matthews's concerns and needs. Lt. Rice testified that neither he nor the Assistant Directors had been informed by management of any such concerns prior to Sgt. Matthews's visit. After Sgt. Matthews left in an angry state, Assistant Director Zercie counseled Lt. Rice against allowing Sgt. Matthews to come to the Forensic Lab, and Assistant Director Pagliaro advised Lt. Rice that she was concerned about Sgt. Matthews. Lt. Rice called headquarters to advise that Sgt. Matthews was upset about being assigned to the mail room. Lt. Rice talked to Lt. Podgorski. According to Lt. Rice, two hours later Lt. Podgorski visited the lab for five minutes to examine the mail room, then left.

From the perspective of Lt. Rice, the mail room was not an unreasonable choice for Sgt. Matthews. Lt. Rice had been advised by both assistant directors of the lab that based on guidelines promulgated by the accreditation agency for forensics labs (ASCLD-LAB)<sup>3</sup> as well as on CSP laboratory directives, a trooper such as Sgt. Matthews who was not assigned to the Division of Scientific Services could not have card key access to the back of the lab. The mail room, which is off of the lobby, does not require access to the back of the lab. In addition, the mail room, which also contained a soda machine, had originally been designed as an office for temporary workers, such as consultants in criminal cases, who might be at the lab for relatively extended periods of time. Also, during the mid-1990's, the current mail room was used for at least two years as an office by a CSP scientist who was in charge of the lab's information systems. As a result of this history, the mail room was already wired for telephone and internet access. The mail room measures twelve feet by eight feet.

In other circumstances the decision to use the mail room might have been

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<sup>3</sup> American Society of Crime Laboratory Directors - Laboratory Accreditation Board.

inconsequential. In this instance, Sgt. Matthews testified that he interpreted the selection of the mail room for his office space as an attempt by management to make him feel exposed and isolated by excluding him from the secure area behind the key-card access door, and generally to denigrate and punish him by segregating him to a public area off of the lobby, away from his friends and acquaintances, who all had space in the back of the lab. On either Thursday or Friday (March 1 or 2, 2007), Lt. Rice was advised by headquarters that his orders to find space for Sgt. Matthews at the Forensic Lab were cancelled.

The advice given to Lt. Rice that access to the lab area is limited to persons attached to the Division of Scientific Services by the ASCLD-LAB guidelines or the CSP laboratory directives appears to have been inaccurate. The ASCLD-LAB guidelines provided to this office by Lt. Rice and the assistant lab directors state that "Access to the operational area of the laboratory [is] limited to those individuals who are assigned to routinely work in the area or to those individuals designated by the laboratory director to have access." The guideline language in fact carefully omits requiring access to be limited to lab employees. Obviously, a trooper such as Sgt. Matthews who was assigned office space within a lab would qualify for access since he would be "assigned to routinely work in the area;" moreover, the succeeding provision allowing the laboratory director discretion to grant access to other persons could also apply, and would be especially appropriate for an individual such as Sgt. Matthews with a strong background in forensic science, including a master's degree in forensic science. Likewise, neither of the two Laboratory Directives provided to this office (Nos. 88-31 and 98-2) prevent the management from providing key card access and non-visitor status to other approved individuals. In fact, No. 88-31 expressly allows keys to be issued on a daily basis to "other approved individuals."

Senior CSP management, despite having asserted several times in letters that Sgt. Matthews's security concerns were "unspecified," in fact on occasion has demonstrated a good grasp of some of these concerns. For instance, when Lt. Rice received the order to provide Sgt. Matthews with office space, Lt. Rice testified that he immediately pointed out to Lt. Podgorski that the Division of Scientific Services included the Toxicology Laboratory located on Clinton Street in Hartford, which had "ample" space. Lt. Rice testified that Lt. Podgorski said that this space would not be appropriate, since an individual criticized by name in the Joint Report, based on information provided by Sgt. Matthews, was currently assigned to the Toxicology Lab. Apparently Lt. Podgorski knew that Sgt. Matthews in the course of his whistleblowing activities had reported serious failures and inadequacies by that person while they were both working at IA. Without giving Lt. Rice these details, Lt. Rice testified that Lt. Podgorski informed him that the Toxicology Lab would not work as an office space for Sgt. Matthews because he had some history with a person currently working at the Toxicology Lab, a situation that Lt. Rice testified he was unaware of.

According to the evidence presented in this investigation, Lt. Rice and the two assistant directors of the Forensic Lab were given no information or background on why Sgt. Matthews was being relocated to the Forensic Lab. Thus, when they met with Sgt.

Matthews on February 28, 2007, they testified that they were blindsided and perplexed by Sgt. Matthews's negative reaction to the mail room. Sgt. Matthews for his part testified that he was angered that Lt. Rice had not been properly apprised of the history of his proposed relocations. Had Lt. Rice been appropriately briefed on Sgt. Matthews' security concerns, including the fact that management's last suggested office space for Sgt. Matthews had proposed to place him in the midst of the criminal investigation stemming from his whistleblowing activities, and had Lt. Rice been asked to work cooperatively with Sgt. Matthews before assigning a space, this unfortunate mail room incident possibly could have been avoided entirely.

In addition, the involvement by senior CSP management appears to have been inadequate. Former Commissioner Boyle testified that he had no role in the matter, and entirely delegated the task of finding space to Lt. Podgorski. Lt. Podgorski himself entirely delegated the matter of finding space for Sgt. Matthews at the lab to Lt. Rice apparently without properly briefing Lt. Rice on Sgt. Matthews's concerns as a whistleblower. Again, management actions that in most contexts would be routine are often not at all sufficient to meet the challenge of reintegrating a high-profile, perhaps broadly resented, whistleblower back into the agency. Had a senior management representative been included in an initial planning meeting that included Sgt. Matthews or a representative, the card key access issue perhaps could have been resolved on the spot or otherwise worked around. For instance, Lt. Rice testified that he had work at the lab for a sworn officer if one were available, and with Sgt. Matthews's strong background in forensics, perhaps a transfer rather than just a relocation could have been arranged. In this instance, Lt. Podgorski reportedly did make a visit to the Forensic Lab to inspect the space proposed for Sgt. Matthews, but he came two hours after Lt. Rice's meeting with Sgt. Matthews had ended badly, instead of before.

Thus, as a direct result of CSP management's failure to recognize the sensitivity of the situation and to make provisions to address it effectively, an attempted relocation that Sgt. Matthews viewed as particularly promising instead led to further bitterness and distrust by Sgt. Matthews towards CSP management.

7. **Lt. Podgorski continued to be involved in personnel actions related to Sgt. Matthews even though he was a named respondent in a CHRO retaliation complaint and was involved in a case study included in the AG-NYSP Joint Report.**

Lt. Podgorski, who was Col. Lynch's chief of staff and who for a period also acted simultaneously as Commissioner Boyle's *de facto* chief of staff, has been the prime management agent in many significant personnel actions involving Sgt. Matthews discussed in this Report. Lt. Podgorski issued the orders in February and March of this year to relocate Sgt. Matthews to Brainard Field and then to the mail room at the Forensic Lab, each of which presented themselves as a possibly adverse and potentially retaliatory move against Sgt. Matthews. Former Commissioner Boyle testified that Lt. Podgorski was involved in the various decisions regarding Sgt. Matthews's work space from at least

the fall of 2006 and into 2007. Mr. Boyle testified that Lt. Podgorski personally selected Brainard Field as a location for Sgt. Matthews. Lt. Podgorski has been directly involved in many of the management actions taken with respect to Sgt. Matthews even though Sgt. Matthews has named Lt. Podgorski (as well as Col. Lynch and Maj. Arciero) as a respondent in a pending CHRO complaint, and Lt. Podgorski was criticized in one of the case studies included in the AG-NYSP Joint Report. Sgt. Matthews's retaliation complaint against Lt. Podgorski is based on his allegation that Lt. Podgorski specifically is punishing Sgt. Matthews for cooperating with the Joint Investigation by this office and NYSP concerning CSP's IA process.

The question is whether a manager who has been accused of retaliating against a whistleblower should continue to issue personnel orders that could be readily perceived as adverse to the whistleblower. This was particularly inappropriate in this case considering that Lt. Podgorski was directly involved in one of the case studies examined in the Joint Report by this office and NYSP. Former Commissioner Boyle testified that he was under the incorrect impression that Sgt. Matthews's CHRO complaint had been dismissed in the fall of 2006. CSP management should have understood that Lt. Podgorski's direct involvement in personnel actions affecting Sgt. Matthews was problematic and unhelpful to Sgt. Matthews's concerns.

**8. CSP management failed to properly educate the CSP community of the value of whistleblowers to its operations**

While many of the CSP personnel interviewed for this investigation expressed support for Sgt. Matthews, no doubt some affected by the AG-NYSP report harbor resentment toward Sgt. Matthews.

Resentment against whistleblowers is a significant management challenge. It is especially difficult in a quasi-military agency such as CSP, where conformity and strict chain of command are rightly considered essential. One of our findings is that CSP management failed to educate the CSP community as to the significant contributions made by whistleblowers. This office and NYSP clearly concluded that the allegations of improprieties in the IA by Sgt. Matthews and other whistleblowers were accurate. Such whistleblowers deserve active support from top CSP management. Support should include significant efforts to educate the CSP community as to the contributions whistleblowers make to the integrity of the CSP organization. Management must also make clear that reports of wrongdoing are encouraged and that it will protect whistleblowers against retaliation.

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Management's various personnel actions pertaining to Sgt. Matthews failed to consider adequately or appropriately the extraordinary risks and dangers that may be faced by a whistleblower. The initial assignment to the Middletown headquarters, and the subsequent attempted placement at Brainard Field, would have exposed Sgt. Matthews to potential hostility. The state police union agreed that these locations were unacceptable.

Management's offer of an office in the lobby of the Forensic Lab separated and barred him from those he viewed as friends and associates at the lab, and was perceived by Sgt. Matthews as an attempt to isolate him and make him feel exposed. In fact, management decisions at the Forensic Lab appeared to physically isolate Sgt. Matthews and were made without consulting him. No real effort was made to show Sgt. Matthews that he was welcomed, valued, and protected by management.

Former Commissioner Boyle testified "that I tried to be sensitive to making sure that any personnel action that we were taking couldn't be viewed as being retaliatory or punitive." The former Commissioner's view is commendable, but CSP management took a number of actions viewed by Sgt. Matthews, and by others in the CSP, as retaliatory or punitive.

### Conclusion and Recommendations

While Sgt. Matthews did not act alone in reporting the IA improprieties, he was one of the most effective and productive whistleblowers in the Joint Investigation. He deserves to have this contribution recognized, and to complete his State Police career with dignity and appreciation.

Although Sgt. Matthews has not been dismissed or demoted, the evidence shows more subtle retaliation – harassment, isolation, and ostracism – whether or not intentional. Sgt. Matthews has testified that he has suffered personally and has been isolated professionally, because of his cooperation with this office and the NYSP. Interviews and other evidence support Sgt. Matthews's contentions, demonstrating a wide-spread feeling of ill-will and resentment against him for his cooperation with the Joint Investigation. Insufficient steps have been taken to quell and counter this climate of ill-will against Sgt. Matthews. Inaction appears to have allowed it to continue. The conclusion is inescapable that Sgt. Matthews reasonably perceived a number of personnel decisions by CSP management as punishment and, equally important, these decisions would reasonably be viewed as retaliation by other potential whistleblowers.

This investigation is unable to determine whether the action or inactions by CSP management were actually intended to create an environment of harassment and isolation, or whether these ill effects were simply unintended by-products of good-faith, but ill-conceived, management decisions. Clearly, these were affirmative steps taken with respect to a whistleblower that placed him in what he reasonably believed to be a hostile working environment.

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The evidence of retaliation, and lack of evidence to rebut the statutory presumption of retaliation can support a conclusion that this whistleblower was a target of retaliatory action.

In considering an appropriate remedy, the goal should be to reverse as directly as possible the atmosphere of disapproval and distrust and to provide Sgt. Matthews with

protection, respect, and institutional appreciation for his acts of public service.

CSP management must take proactive steps to insure that Sgt. Matthews receives an appropriate new work assignment, and office space. Whether intentionally or through ineffectiveness or lack of attention, management has permitted a series of transfers of Sgt. Matthews, and other actions, that Sgt. Matthews has understandably perceived as retaliatory. Equally important, if potential whistleblowers conclude that Sgt. Matthews has been treated unfairly, they are less likely to come forward. As explained throughout this report, Sgt. Matthews and others in CSP have perceived various actions including transfers and attempts to transfer him as retaliatory. This view is reasonable.

We recommend:

- that the CSP management establish a small, senior group, with all stakeholders represented, to work with Sgt. Matthews to determine a mutually satisfactory, appropriate work location and/or assignment for Sgt. Matthews;
- that any time off taken by Sgt. Matthews due to his perception that he was being subjected to a hostile work environment should be credited to paid administrative leave or other paid leave of absence;
- that the Commissioner of Public Safety and the Colonel of the State Police adopt policies to protect whistleblowers and to ensure that every member of the Connecticut State Police understands that the State Police honor and reward whistleblowers, and will not tolerate anything less than a welcoming attitude toward individuals who report wrongdoing. The overriding goal must be to assure and demonstrate convincingly that whistleblowers at the Connecticut State Police are not just tolerated, but valued and appreciated.
- that Lt. Podgorski and Maj. Arciero, who have been named as respondents by Sgt. Matthews in a CHRO complaint, be removed from any further involvement with Sgt. Matthews.